

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

KIRKWOOD DARRELL CABINESS, )  
Petitioner ) Civil Action No. 7:12cv00625  
 )  
v. ) **FINAL ORDER**  
 )  
HAROLD CLARKE, )  
Respondent. ) By: Norman K. Moon  
 ) United States District Judge

In accordance with the Memorandum Opinion entered this day, it is hereby **ORDERED** and **ADJUDGED** that respondent's motion to dismiss (Docket No. 9) is **GRANTED**; the above referenced 28 U.S.C. § 2254 petition is **DISMISSED**; and this action is **STRICKEN** from the active docket of the court.

Further, finding that Cabiness has failed to make a substantial showing of the denial of a constitutional right as required by 28 U.S.C. § 2253(c)(1), a certificate of appealability is **DENIED**.

The clerk is directed to send copies of this Order and the accompanying Memorandum Opinion to Petitioner and counsel for Respondent.

ENTER: this 24th day of July, 2013.

  
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NORMAN K. MOON  
UNITED STATES DISTRICT JUDGE